

August 6, 1998

**OFFICE OF THE EXAMINER**  
**KING COUNTY, WASHINGTON**

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**DECISION ON APPEALS OF SEPA THRESHOLD DETERMINATION AND  
CONDITIONAL USE PERMIT**

SUBJECT: King County Department of Development and Environmental Services File No.  
L96AC022

Location: On the west side of 236th Avenue Northeast between NE 41st Street and NE  
47th Street (if both streets were extended)

Applicant: TimberLake Christian Fellowship

Appellants: TimberLake Christian Fellowship  
Represented by Richard R. Wilson, Hillis Clark Martin & Peterson

Citizens for Responsible Rural Area Development  
Represented by J. Richard Aramburu

Intervenor  
(limited): Bruce Buckles

Department  
Representatives: Greg Borba and Fereshteh Dehkordi

**SUMMARY OF DECISION:**

Department's Preliminary:	Deny Appeals
Department's Final	Modify CUP Conditions
Examiner:	Deny SEPA Appeal, Remand CUP

**PRELIMINARY MATTERS:**

Application filed:	September 27, 1996
Date complete:	April 10, 1997
Appeals received by Examiner:	March 10, 1998

**EXAMINER PROCEEDINGS:**

Prehearing Conference:	April 9, 1998
Hearing opened:	May 21, 1998
Hearing Continued:	July 15, 16, 17 and 20, 1998

Record Closed:

July 27, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES ADDRESSED (Prehearing Order):**

- A. Imposition of a 180 ft. radius buffer from red-tailed hawk nest.
- B. Required conservation easement of two acres for every one cleared.
- C. Preparation and execution of conservation easement.
- D. Size of proposed building.
- E. Uses of the proposed building.
- F. Uses of outdoor areas
- G. Requirement for CUP of possible future subdivision.
- H. Restriction on number of parking stalls.
- I. Buffer width along 236th NE frontage.
- J. Date of vesting for future development permit applications consistent with conditional use permit application.
- L. Noise impact of the proposed development.
- M. Adequacy of transportation facilities for the proposed development.
- N. Adequacy of water supply.
- O. Compatibility of proposed development with adjacent and nearby existing and authorized development in the rural area including size, proposed uses, area to be served and traffic volume generated.
- P. Whether the principal use proposed is permitted in the RA-5 zone.
- Q. Impact of light and glare from parking lot lights.

**FINDINGS, CONCLUSIONS AND DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS OF FACT**

1. TimberLake Christian Fellowship ("TimberLake"), a congregation of the Free Methodist denomination, proposes to build an 80,000 ft. church building at its undeveloped site on the west side of 236th Avenue N.E. between N.E. 41st and N.E. 47th Streets in two phases; Phase 1 would be about 52,300 sq.ft. and the remainder would be added in Phase 2. The site is zoned RA-5 and comprises approximately 63 forested acres that slope generally from northeast to southwest with at least one area of steep slope. Evans Creek, a Class 2 stream, runs along the western boundary of the property and a tributary stream extends from the northeast boundary toward the southwest to where it joins with Evans Creek. Wetlands lie in the southeastern quadrant of the site.
2. The site plan, Exhibit 93, shows development is proposed to be limited to the part of the site east and south of the tributary stream. Approximately 12 acres to the west and north of the stream are designated for future subdivision. The proposed development would require clearing of about 18 acres or 29 percent of the site for the building site, parking lots, drainfield and roadways. Thirty-three acres would be in permanent, undeveloped open space. The record shows that generally about one half acre is cleared for single family development in the area. If the northwesterly portion were subdivided, an

additional acre could be cleared bringing the cleared area to about 30 percent. The Bear Creek Community Plan limits clearing of land to not more than 60 percent.

3. The facility proposed by TimberLake is a church as defined by KCC 21A.06.185. KCC 21A.08.050 allows churches as a conditional use in the Rural Area (RA) subject to the specific condition that it not require or result in an expansion of sewer service outside the urban growth area and to the general conditional use criteria in KCC 21A.44.040.
4. Application was made for the conditional use permit ("CUP") in September, 1996; the application was determined to be complete in April, 1997, after a certificate of water availability was obtained and submitted. Additional information on wildlife, streams and wetlands was required and a revised site plan was submitted. The site plan continued to evolve even during the time of the hearing itself. The Department's SEPA determination and CUP decision were based on the site plan (Exhibit 12) dated 9/27/96 but the Department found the latest (Exhibit 93) dated 7/10/98 not to have changed in any way significant to its threshold determination or CUP decision. The Examiner agrees that the changes were not significant in that they would not create any new or increased impacts nor would they change the project's relationship to the CUP criteria.
5. Timberlake currently conducts its religious programs in several rented locations and in private homes. Services are held at Evergreen Junior High, youth programs at Happy Valley Grange, administrative offices are in Redmond and various meetings are held in private homes. Special activities are held in varying locations such as Marymoor Park. The rented space totals about 48,000 sq. ft.
6. The record does not contain evidence of why TimberLake chose this Rural Area site.
7. TimberLake was founded in 1989 and has grown from a few families to some 1100 persons attending services on Sundays. It has experienced a rate of growth of 10-20 percent a year and projects continued growth of about 15-20 percent.
8. The Reverend Rick Snodgrass, founder and senior pastor of TimberLake, explained that it is a tenet of faith of the Free Methodist denomination that the church is an organism and that to survive it must grow and change to carry out its mission to make more and better disciples. The programs and activities therefore may change as the needs of the congregation and community it serves change and as the congregation gains understanding of what God wants it to do.
9. The programming described in Exhibit 21 was relied upon by the Department in making its SEPA determination and CUP decision. The programming described by Timber Lake's witnesses, and in other exhibits adduced by Appellant Citizens for Responsible Rural Area Development ("Citizens"), is largely consistent with that listed in Exhibit 21. In general TimberLake's programs can be categorized as worship, Christian education for adults, youth and children, fellowship, and outreach to the community. Specifically included under those categories are activities for youth, a 35 child day care center, collecting of clothing and other goods for the needy, a studio for producing audio and video tapes of services, a library/bookstore. League sports programs were listed in Exhibit 21 but are no longer being proposed TimberLake does not propose to have a parochial school. Kitchen facilities would be limited to a residential type kitchen. TimberLake expects to have five formal worship services in the sanctuary per week, one

Saturday evening, two Sunday morning, one Sunday evening and one Wednesday evening. The activities would involve some 5500 to 6,000 adults and children per week. Varying estimates of staffing appeared in different documents but 20-25 appears to be the most likely number. All programs and activities described are deemed by TimberLake to be a component of, or directly related to, the religious mission of TimberLake.

10. Over 50 percent of families classified as "regular attenders" have Redmond addresses. Some 8 percent are from Woodinville and about 8 percent from Bellevue addresses. Lesser percentages come from addresses in Issaquah, Duvall, Carnation, Kirkland, Seattle and others and as far away as Arlington.
11. How TimberLake arrived at the size of the facility needed is not entirely clear from the record. The various boards and committees worked with the architects to describe their needs and dreams, looked at other church facilities, considered the size of the site and the impacts of the facility and factored in expected growth. If the facility is not large enough to accommodate the predicted growth, however, its functioning would be impaired.
12. The median size of the 154 church buildings with "Eastside" zip codes listed in Exhibit 122 is 12,188 sq. ft. At 80,000 sq.ft., the proposed church would be in the 98th percentile for size of facility among those churches. It cannot be described as a small church.
13. The site is served by 236th Avenue N.E. which is classified as a collector arterial, 24 ft. wide with one lane in each direction. It has a 6-foot paved shoulder on the east side and 6-foot gravel shoulder on the west side. There would be three points of access to the site. TimberLake has agreed to add northbound left turn lanes at the two most southerly proposed access points. A 5-foot wide sidewalk would be added across the frontage of the site. A traffic report was prepared using trip generation calculations based on the ITE trip generation figures which rely on floor area. During the Sunday peak hour (with attendees leaving the first service and arriving for the second) the church is expected to generate 750 trips (285 coming in and 465 going out.) Traffic volume during the Sunday peak hour without the church traffic would be 75 vehicles northbound and 111 southbound. Assuming all traffic uses one access point, the level of service would be A for the northbound left turn from 236th N.E. and B for the eastbound right turn and C for the eastbound left turn out of the site. The level of service at the intersection of 236th N.E. with SR 202 would remain unchanged at B with the project for both Sunday morning and weekday peaks.
14. A queuing analysis was conducted also assuming all traffic would enter and exit one access point. With an average arrival rate of one vehicle every 2.4 minutes for the weekday p.m. peak and one vehicle every 15 seconds during the Sunday peak hour, the analysis shows that there would be no vehicles queuing.
15. The most southerly access roadway serves the Shifton property as well. It would be widened to 20 ft. and would be sufficient for emergency vehicle access. If, for some reason, traffic on that roadway prevents emergency access, the other two roadways could be used to reach the Shifton property.
16. TimberLake proposes to provide parking for 677 vehicles on-site. The parking would be equally divided between two lots, one along 236th in the northerly part of the

- development and the other to the west of the church. KCC 21A.18.030(A) requires 200 parking spaces. Using ITE standards for church parking, based upon an average of .43 spaces needed per person (the range is from .12 to .63) with 1200 attending church services, 516 spaces would be needed. The need would be for 590 spaces if a fitted curve is used. The demand could be greater on special religious holidays or for other special services but no estimate of that need was provided. Since special scheduling may be possible for these occasions, the number of spaces to accommodate the top of the range is reasonable. The consequence of insufficient on-site parking would be an adverse effect from overflow parking in the neighborhood and on 236th.
17. A noise study was prepared to assess the effect of the proposed development on surrounding residential properties. The highest noise levels are expected to be from traffic and parking on Sunday mornings. Citizens' expert also did long term monitoring to determine ambient levels and her results were reasonably comparable to the levels used in the study. The Noise Study predicted future noise levels based upon church traffic volume of 510 vehicles during the peak hour and predicted a 4.5 dBA increase based on that level. If there are the 750 trips as projected in the traffic impact analysis, the increase could be 6 dBA. Under normal conditions it takes a change of at least 3 dBA for humans to perceive a difference in noise level, so the difference between an increase of 6 and an increase of 4.5 dBA should not be noticed. The bigger concern of Citizens' expert is the possibility of noise from outdoor amplified events. County regulations do not set specific sound level limits for such activities; they are regulated only by public disturbance standards. The expert pointed out that the study predicts a 20 dBA reduction in sound for the 300 ft. distance from a parking lot to the nearest residential use but if the drainfield is used instead for outdoor concerts or other activities, the distance could be as small as 50 ft. and a serious noise impact could result. Restrictions on the sound level of outdoor events would be appropriate. Sound from inside the church is assumed to be reduced by 25 dBA for the effect of walls but this could be compromised if windows are open.
  18. The conclusion of the Health Department based on the noise study was that noise levels produced by church activities will be less than King County's maximum permissible sound levels at all times. Though the report assumed the wrong zoning, the correct levels should not be exceeded.
  19. The Union Hill Water Association (UHWA) issued a certificate of availability for twelve Equivalent Residential Units (ERU) of water because the size of the site would accommodate twelve single family lots. An ERU is the amount of water one single family residence in the district consumes in one month, or 1200 cu.ft. TimberLake based its estimate of water usage on usage by three other churches with programs similar to those it proposes. This was not shown to be an unreasonable means of estimating potential usage. TimberLake proposes to drill a well for its irrigation needs, though the UHWA certificate says that the unused ERU water may be used to supplement the well water. The UHWA certificate also provides that punitive water rates may be imposed for use above the twelve ERU maximum or water service may be interrupted. Citizens contends that UHWA is unlikely to cut off water to the church but did not dispute that punitive rates could be effective.
  20. The proposed development will be served by an on-site septic system which has received preliminary approval by the Department of Public Health. The drainfield area will be provided at the southern end of the property. An infiltration pond to deal with surface

water from impervious surfaces is proposed to the north of the drainfield. Concerns were voiced by Citizens about its location upgradient of the drainfield, however the preliminary tests for the conceptual design show that the setback is sufficient so that the infiltrating drainage will go below the drainfield.

21. The Wildlife Study Report done for the project found no endangered, threatened or priority wildlife species listed in the Washington Department of Wildlife Nongame Heritage data and Priority Habitats and Species data nor in the field survey of the site. The survey, done in 1997, did find an active red-tailed hawk nest which was not used in 1998. Red-tailed hawks may maintain alternate nests using one or more and may not return to the same nest every year but may return after several years. Red-tailed hawks are one of the most widespread and commonly observed birds in North America. The County's biologist saw evidence that pileated woodpeckers may utilize the site for foraging and believes that it also could be habitat for the black-tailed deer, both of which are candidate or priority species. He estimated that some 60 to 80 species of wildlife may utilize the site. He opined that the 2:1 ratio of conservation easement to cleared acre is needed to protect the two candidate species and all priority species.
22. Comprehensive Plan Policy NE-604 provides that King County shall designate and protect Fish and Wildlife Habitat Conservation Areas including habitat for the red-tailed hawk. It also requires protection of habitat for "candidate" priority species including the pileated woodpecker. Policy NE-608 allows stream and wetland buffer requirements to be increased to protect endangered, threatened and priority wildlife species and their habitats. This policy was not identified in the MDNS as a source of authority for any conditions. The State Department of Fish and Wildlife recommended a 320 ft. buffer for the hawk nest and that any clearing, grading and construction activity be prohibited within a 650 ft. radius during February to July, however the Department agreed to a 180 ft. radius instead of the 200 ft. recommended on the last couple of approvals with nests. TimberLake proposes a buffer with a 100 ft. radius on the east side. The record does not show that there is a scientifically based minimum required buffer.
23. Darkness at night is an element of rural character and this rural area is very dark, allowing residents to enjoy the night skies. Because of controls imposed on the business properties at the neighborhood business area, the neighbors see no light from those businesses. Any lighting of the site that is not properly controlled would change this cherished characteristic of the neighborhood. KCC 21A.12.220G requires that building illumination and any lighted signs be designed to assure that direct rays of light are not projected into neighboring residences or onto the street right-of-way. The applicant proposes conditions to accomplish that requirement. Lights from cars leaving the site after dusk may play across houses across 236th and from the parking lot across the Shifton property. The applicant proposes to offer to plant additional vegetation on neighboring properties to minimize this effect. Building and parking lot lighting may diffuse into the night sky but a condition requiring that lights be turned off can mitigate this effect.
24. Except for the commercial development to the south, surrounding properties are developed with single family residences. The property to the south, north of SR 202, is developed with a retail grocery store (Albertsons) on a five-acre lot, a gas station and a mini-storage facility. Those lots have been cleared for the buildings and parking and are landscaped. The rest of the area is characterized by trees and other vegetation. Residents can watch many varieties of wildlife: deer, quail, owls, woodpeckers, etc.,

from their windows and decks. The traffic is so sparse they can walk in the roadway. They treasure the peace, solitude, privacy, quiet mornings and dark nights that they have. The proposed development would add activity to the roadway with attendant lights and sound and, depending upon the nature of the landscape and buffering, could insert an institutional element into the rural residential character of the immediate surroundings. A building the size proposed, if visible, would dominate the visual landscape.

25. The landscaping proposed by the applicant would exceed the requirements of the King County Code. For instance, TimberLake proposes an average of 32 feet of Type I landscaping along the street frontage where 20 feet of Type II is required. The Department required as a condition of approval that a 50-foot undisturbed buffer be provided along 236th Avenue N.E. and adjacent to all residentially-zoned properties.
26. Vegetation along most of the frontage is mixed forest, a mixture of deciduous and evergreen trees. The more southerly frontage is deciduous forested wetland. Even considering that the right of way for 236th extends some 18-20 feet east of the 24-foot width of traveled roadway, Exhibit 116 shows that, at those locations at least, existing vegetation would not function as a visual barrier even in the spring and summer. TimberLake offers to enhance existing vegetation to meet the Type I standard, which functions as a visual barrier, "theoretically" according to one witness, and proposes that a condition be imposed requiring that, if permitted, additional landscaping be installed in the right of way. Any reduction in the 50-foot buffer as requested by TimberLake would be acceptable only if the additional depth were created in the right-of-way and that all 50 ft. were enhanced to achieve an actual visual barrier.
27. The Department reviewed the environmental checklist submitted with the application, the various studies and additional information submitted, and issued a Determination of Nonsignificance (Mitigated) ("MDNS") as its threshold determination pursuant to the State Environmental Policy Act (SEPA). It found that the proposed project's negative impact on the red-tailed hawk habitat would be significant but that the impact could be reduced to a level of nonsignificance through the series of conditions, including a 180 ft. radius buffer of the nest site, imposed pursuant to Comprehensive Plan policies NE-601 and NE-604, adopted as substantive SEPA policies. A condition was also imposed pursuant to the same SEPA authority requiring that two acres for every acre to be cleared be placed in a conservation easement.

NE-601 provides:

The County shall strive to maintain the existing diversity of species and habitats in the County. In the Urban Growth Area, King County should strive to maintain a quality environment which includes fish and wildlife habitats that support the greatest diversity of native species consistent with the density objectives. The County should maximize wildlife diversity in the Rural Area.

NE-604, in pertinent part, provides:

King County shall designate and protect the following Fish and Wildlife Habitat Conservation Areas found in King County:

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c. Habitat for Raptors and Herons of Local Importance: red-tailed hawk, osprey, black-crowned night heron, and great blue heron:

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King County shall also protect the habitat for "candidate" priority species as listed by the Washington Department of Fish and Wildlife and found in King County outside of the Urban Grown Area.

"Candidate" Priority Species of Local Importance are:...pileated woodpecker.

28. Comprehensive Plan sections not cited in the MDNS such as NE-605 provide for protection of the Columbia black-tailed deer, and NE-608 allows stream and wetland buffer requirements to be increased to protect Priority wildlife species.
29. KCC 21A.44.040 provides that a conditional use permit shall be granted only if the applicant demonstrates that:
  - A. The conditional use is designed in a manner which is compatible with the character and appearance of the existing, or proposed development in the vicinity of the subject property;
  - B. The location, size and height of the buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
  - C. The conditional use is designed in ☐a manner that is compatible with the physical characteristics of the subject property;
  - D. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
  - E. The conditional use is not in conflict with the health and safety of the community;
  - F. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
  - G. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.
30. The Department concluded that the applicant had demonstrated conformance to all of the conditional use criteria except that the design is not compatible with the character and appearance of existing or proposed development in the vicinity, criterion A. The Department noted that the 80,000 sq.ft. building would be larger than the adjacent 48,500 sq.ft. grocery store. The Department found that the proposal was generally inconsistent with Comprehensive Plan policies R-208, R-209 and R-211. The Department concluded that a building no larger than 48,500 sq.ft. would be consistent with the policies and compatible with the area. The Department also found that 677 parking stalls would be excessive and that reducing the number to 400 would reduce the overall size and scale of the facility and be adequate for the smaller building. The



Department concluded that a minimum 50-foot undisturbed buffer along 236th N.E. and adjacent to residential property lines would be required to assure compatibility. Finally, it concluded that a diversity of building materials would help break down the visual bulk and scale of the building.

The Department and TimberLake reached agreement as to modification of CUP condition No 2, challenged by TimberLake.

31. TimberLake proposed additional conditions and modifications to conditions restricting use and development on the site to address issues raised at the hearing regarding the impact of the use and development. The applicant is willing to provide a 50-foot buffer adjacent to residentially zoned properties with enhancements to attain a Type I barrier; to plant additional vegetation on certain properties on the east side of 236th ; to meet the standards of Albertson's for light levels; to limit kitchen facilities to ordinary residential-level; to prohibit operation of a public or private school requiring certification by the Superintendent of Public Instruction; to prohibit automobile repair facilities; to limit organized outdoor events to six per calendar year; to limit sound levels during organized outdoor events generally to 49 dBA on receiving residential properties; to prohibit installation of a permanent exterior public address system; to prohibit construction or installation of any permanent equipment or structures for ballfields or other sports events and to prohibit organized sports league events; to prohibit commercial deliveries, garbage pickup and parking lot sweeping between the hours of 9 p.m. and 7 a.m. on weekdays and Saturdays and totally on Sundays; and to place 1.8 acres in a conservation easement for every acre cleared.

## **CONCLUSIONS**

### **SEPA Threshold Determination Appeal**

1. The threshold determination made by the Department is entitled to substantial weight. Though substantial weight is not accorded to conclusions of law (see Rules of Procedure of the King County Hearing Examiner, IIB9) the Examiner will accept, for the purpose of this appeal because no party objected, the Department's interpretation of WAC 197-11-350 that the Department may impose conditions, not agreed to by the applicant, to reduce what would otherwise be a significant adverse impact to a level that is not significant, and issue an MDNS. The burden is on the SEPA appellant to demonstrate that the MDNS is clearly erroneous.
2. Citizens alleged that the probable impacts from noise, traffic, water usage and light and glare are significant. Because the evidence adduced shows that with the proposed conditions none of these impacts would have more than a moderate effect on the environment, appellant did not sustain its burden and the MDNS must be affirmed.

In TimberLake's challenge to the SEPA conditions imposed also as CUP conditions, it was required to show, under the Department's interpretation of the rule, that the conditions imposed were not necessary, i.e., that even without those conditions, or with less restrictive conditions, the impacts would not be significant .

3. Condition No. 1 required a 180 ft. radius buffer from the nest site to be set aside. Appellant's showing that there is no agreement about the appropriate buffer and that the

hawk can rely on alternate nests was sufficient to establish that whether or not a 100 ft. buffer would be adequate the impact should not be more than moderate. As to Condition 6, TimberLake showed that the Department relied upon an opinion of the DNR expert that a higher ratio of undisturbed to cleared property was needed based upon assumptions not shown to be factual. For instance, the expert's testimony was that there may be 60-80 species on the site but the ratio was based upon 100 species. Condition No. 9, also challenged, has no relationship to the degree of environmental impact so is not essential to the MDNS. If TimberLake's appeal of these conditions as CUP conditions is successful, and the conditions were removed or modified, the threshold determination would not have to be changed to a determination of significance.

### **Conditional Use Permit Appeals**

4. To obtain a conditional use permit the applicant must demonstrate that the criteria in KCC 21A.44.040 are met. That burden stays with the applicant on appeal when the applicant is appealing the CUP decision of the Department. The burden of proving that the criteria are not met for the size of use approved in the Department's decision rests on Citizens.
5. TimberLake contends that the Department improperly considered the size of the use in assessing the application's conformance to CUP criterion A, arguing that since size is explicitly a factor in criterion B, it cannot be inferred as a factor of design in A. The use of size in B, along with location and height, to be considered for whether the building hinders circulation or discourages other development or use of other properties, does not mean that size cannot also be considered for the other ways it may affect the appropriateness of the proposal. As the architect, Lane Williams explained, size is an element of design. Therefore, the Department was correctly interpreting criterion A. when it treated the size of the building as part of its design compatibility.
6. The Department also relied upon certain Comprehensive Plan policies to provide guidance in determining compatibility of design with the character and appearance of the Rural Area. Those policies are:

R-101. It is a fundamental objective of the King County Comprehensive Plan to maintain the character of its designated Rural Area. Therefore, King County's land use regulations and development standards should protect and enhance the following components of the Rural Area:

- a. Environmental quality, particularly as evidenced by the health of wildlife and fisheries (especially salmon and trout), aquifers used for potable water, surface water bodies and natural drainage systems;
- b. Commercial and non-commercial farming, forestry, fisheries, mining and cottage industries;
- c. Historical resources, historical character and continuity including archaeological and cultural sites important to tribes;
- d. Community small-town atmosphere, safety, and locally-owned small businesses;

- e. Economically and fiscally healthy rural cities and unincorporated towns and neighborhoods with clearly defined identities compatible with adjacent rural, agricultural, forestry and mining uses;
- f. Regionally significant parks, trails and open space; and
- g. A variety of low-density housing choices compatible with adjacent farming, forestry and mining and not needing urban facilities and services.

R-208. Accessory and non-residential uses in predominantly residential portions of the Rural Area should be limited to those that:

- a. Provide convenient local services for nearby residents; or
- b. Require location in a Rural Area (for example, some utility installations); or
- c. Support natural resource-based industries or adaptive reuse of significant historic resources.

R-209. Accessory and non-residential uses appropriate for the Rural Area include raising livestock, sale of agricultural products produced on-site and small-scale cottage industries. Except for uses requiring a rural location or those related directly to farming, forestry, fisheries, mining, or kindergarten through twelfth grade public schools and facilities, the Zoning Code should not permit primary non-residential uses such as golf courses on lands in the Rural Area designated for a residential density of one home per 10 acres or lower. Churches shall be permitted as a conditional use, subject to restrictions on sewer expansion, in the RA-2.5, RA-5 and RA-10 zones and shall not be permitted in lower density Rural Area zones.

R-211. Churches and high schools in the Rural Area are encouraged to locate in rural cities or unincorporated Rural Towns. In reviewing proposals for siting churches and schools outside cities or Rural Towns, King County shall assure that any approved project will not stimulate local demand for urban-level services and that any sewer service permitted is designed only to serve the approved project. To ensure safe walking conditions for student, King County should continue the School Walkway Program.

- 7. TimberLake contends that RCW 36.70B.030 prohibits the use of the Comprehensive Plan in project-level review where development regulations have been adopted, so, it argues, the Department erred in considering these policies. The Examiner sees the intent of the statutory provision to be to prohibit the revisiting at the project review level those decisions about use and density made in adopting the Comprehensive Plan or the development regulations. It is not intended to prevent the County from designating in its regulations for uses permitted only by conditional use permit, any criteria or policies it deems appropriate for consideration. And the County has specified in its Comprehensive Plan policy I-408 that development approvals are to be consistent with the Comprehensive Plan, zoning, community, subarea and neighborhood plans. If the Department had refused to consider the application for the church use because it interpreted the Comprehensive Plan provisions to categorically prohibit churches in this zone, even though the regulations allow churches as conditional uses if they meet the criteria, TimberLake's arguments would be well taken. But the County has not

"revisited" that decision about permitted uses. Each policy then must be examined to determine whether it has applicability to the particular approval requested.

8. R-101 affirms that maintenance of the character of Rural Areas is a fundamental objective of the Comprehensive Plan but the policy is directed to the development of land use regulations and development standards to implement that objective. Therefore, it does not apply directly in a project-level review. R-208 also would apply to churches as a whole in that they would satisfy the first criterion by providing a convenient local service so the policy must be intended for guidance in determining what uses the regulations should allow. Though the accompanying discussion mentions that "small" churches would be appropriate, the regulations implementing the policy employ criteria more in the nature of performance standards to determine whether the particular church should be allowed. R-209 also appears to be intended only to guide the development of regulations. R-211 is intended for guidance in project review.
9. R-211 encourages location of churches in rural cities or unincorporated rural towns. If, despite this encouragement, a church is proposed for other than rural cities or towns, the policy direction to the Department is to assure that the church does not stimulate demand for urban-level services and that any sewer service serve only the project, both criteria satisfied by the subject proposal.
10. From the applicable Comprehensive Plan policies the Examiner concludes that, though encouraged to locate elsewhere, churches may be permitted in the Rural Areas provided the character of the Rural Area is maintained. This guidance is consistent with the conditional use permit criteria in KCC 21A.44.040.
11. To assess whether the design of the conditional use is "compatible with the character and appearance of the existing, or proposed development in the vicinity," the first CUP criterion, one must define what the existing and proposed character is. For existing character, the Citizens provided vivid descriptions of their view of the area's character and how the proposed development would change it. TimberLake pointed to the adjoining neighborhood commercial area with its extensive clearing and prominent retail uses. In looking for a way to understand what the proposed character of development in a Rural Area is and how to assess compatibility of proposed uses with that character of development, Citizens referred to the Central Puget Sound Growth Management Hearings Board's discussion of "rural character" in *Vashon-Maury, et al v. King County*, Case No. 95-3-0008 (1995). That board recognized both visual and functional components to rural character. To judge functional compatibility they require an assessment of whether the functions traditionally associated with the rural area would be "unduly and negatively" impacted, meaning by the physical effects of traffic, noise, runoff, and by growth inducing impacts, etc. The record does not show such off-site impacts so the proposal would not be incompatible with the functional character of either existing or proposed development.
12. The Board explained that the visual compatibility evaluation may be a location and site specific analysis and requires determining whether "the visual character of the rural landscape is unduly disrupted or altered by a proposed use." *Id.*, p.1289. So, if the landscape is unduly disrupted or altered, the use would not be compatible with the character of the existing and proposed development of this area. The Department concluded that the size of the facility, building and parking, had to be reduced to meet this test, and used the Albertson's store as the outer limit of the character of the existing

development. Citizens urge that even a reduction to 48,500 sq.ft. is not sufficient to assure compatibility.

13. Article 1, Section 11 of the Washington State Constitution has been interpreted to limit government's ability to regulate activities by churches if the regulation constitutes a burden on the free exercise of religion, unless it is justified by a compelling state interest and the least restrictive means is used to achieve that interest. *Munns v. Martin*, 131 Wn.2d 192, 930 P.2d 318 (1997). TimberLake has demonstrated that restricting the size of the facility to 48,500 sq.ft. would impair the church's ability to carry out its religious functions and its mission to grow by making "more and better disciples." Therefore, that restriction would constitute a burden on the exercise of the religious beliefs of this congregation and denomination.
14. The free exercise of religion may be burdened, however, if the interest of government is compelling. The interest served by restricting the size of the church is the maintenance of the rural character of the area's development. Since the functional aspect of that character would not be affected, it is the visual character that the size limitation is intended to protect. The Court has stated that compelling interests are those that are related to the necessities of national or community life such as public health, welfare and peace. *Munns* addressed aesthetic interests directly, in the form of preservation ordinances, and concluded that they are not sufficiently compelling to justify infringement on this constitutional right. Therefore, the County may not lawfully limit the size of this church. However, the conclusion that the County is constitutionally prohibited from limiting the size of this church does not mean that the County may not deny the CUP if the application does not meet the CUP criteria.
15. Even conditions to protect aesthetics may be applied to church property if they do not burden the right to exercise religion. To avoid the application of the conditions of the regulations, the church must show that those conditions constitute a burden on the free exercise of religion. TimberLake has made no showing that this site has any particular significance to its beliefs or functioning. Nor has it shown that only Rural Area sites are available to it or there are no other Rural Area sites where it could design a facility of this size without altering the visual character of the existing and proposed development.
16. The Examiner concludes that since the condition limiting the size to 45,000 sq.ft. is unlawful, the compatibility of an 80,000 sq.ft. building, large parking lots and roadways with the visual character of development in the Rural Area must be considered. If the building, parking lots and roadways are readily apparent outside of the subject site, the rural landscape would be altered and, therefore, the design would not be compatible with the visual element of the existing and proposed character of the development of the area. As stated above, the applicant bears the burden of demonstrating that compatibility. It has failed to do that. Given the topography of the site and surroundings and the nature of the vegetation, the absence of finished grades and elevations, the absence of any analysis of lines of sight of the facility from the roadway or residential properties in the area, the Examiner is left without substantial evidence to conclude that the requirement is satisfied. If the necessary showing cannot be made, the CUP should be denied.
17. Because the record is insufficient to make this determination, the matter should be remanded to the Department to consider any further design detail or analysis of the view of structures, parking lots and roadways on the site from the Rural Area that the applicant may choose to submit. If the Department determines that these development

features will not be visible from the surrounding Rural Area, or with the imposition of additional conditions or revised conditions it can be satisfied that those features will not be visible, the CUP should be granted subject to the following conditions:

1. The maximum total gross floor area of the church facilities shall not exceed 80,000 square feet. Any future floor area expansions that would exceed the 80,000 square foot limitation shall require CUP approval to authorize such expansion.
2. The approximately 12.5-acre area identified for future subdivision on the applicant's revised site plan submitted July 15, 1998 (Hearing Examiner's Exhibit 93) may be approved for subdivision provided that no other terms and conditions of the approved CUP specified herein shall be reduced or violated as a result of any such subdivision; except that one access road meeting then-applicable King County Road Standards may be constructed through the required buffer along 236th Avenue N.E. at the northerly end of the site to provide access to any such future subdivision.
3. The church facility and accessory parking areas shall be constructed in the general locations shown on the applicant's revised site plan, submitted July 15, 1998 (Hearing Examiner Exhibit 93) or as changed with DDES approval to reduce visibility to areas outside of the subject site.
4. The maximum height of the church facility shall not exceed 45 feet. The exterior facade of the church facility shall use a combination of different building materials and colors that are compatible with residential construction. This condition does not preclude the use of concrete block or similar materials on portions of the exterior facade.
5. Uses and hours of operation of the church facility shall be consistent with the programming activities described in the October 17, 1997 letter submitted by the applicant's representative (Hearing Examiner Exhibit 21) except as further restricted in these conditions.
6. The maximum number of on-site parking spaces shall not exceed 630 stalls. Any future expansion of impervious surfaces to accommodate additional on-site parking shall require CUP approval.
7. Vegetative screening buffers shall be provided as required following review of additional submittals by the applicant to ensure that the church building, parking lots and roadways are not visible from surrounding RA areas. DDES must review and approve the landscaping plan before any building permit may be issued for the proposed church facility. Before issuance of a building permit for the church facility, the applicant must also post a performance bond with DDES for all its landscaping obligations under conditions imposed and a maintenance bond for its on-site landscaping obligations. Any supplemental plantings required or permitted shall harmonize with native growth and shall be installed by the applicant during the appropriate planting season within one year after issuance of a building permit for the church facility. After planting, all supplemental plantings on the applicant's property shall be regularly irrigated by the applicant during dry weather for a least two growing seasons, in order to

establish plant growth. Plantings necessary to maintain the visual screen shall be replaced by the applicant at the next planting season for the life of the facility.

8. The applicant shall comply with the terms and conditions of the Voluntary Settlement Agreement with WSDOT, signed by the applicant on October 21, 1997 (Exhibit D-28 in the CUP file) to mitigate impacts to SR 202.
9. The applicant shall be responsible for the following road improvements along 236th Avenue N.E.
  - a. Construct Rural Minor Arterial standard improvements along the frontage of the site. Frontage improvements may require additional pavement to transition to the commercial frontage improvements to the south.
  - b. Construct northbound left turn lanes at the two most southerly proposed accesses. Channelization and illumination plans for the left turn lanes shall be reviewed and approved by King County Traffic Engineering Section prior to issuance of a building permit.
10. There shall be no access road constructed on the subject property which connects to N.E. 44th Street and the residential neighborhood known as Canterbury Woods.
11. All on-site exterior lighting used to illuminate the building, parking area and walkways shall be shielded to avoid glare impacts on adjacent residentially zoned properties. Outdoor recreation and play areas shall not be lit for nighttime use. Light levels shall meet the standards of the adjacent Albertson's grocery store, as verified by a new photometric study submitted to DDES. All on-site exterior lighting required or permitted by this condition shall be shown on a lighting plan submitted by the applicant to DDES, and DDES must review and approve such lighting and the required photometric study before any building permit may be issued for the proposed church facility. Any future changes to exterior lighting shall require photometric verification for compliance with the Albertson's standard. Parking lot lighting shall be limited to 25 feet in height to limit off-property impacts. Driveway and parking lot lighting shall be turned on only from dusk to 10:30 p.m.
12. The applicant shall comply with the SEPA mitigation conditions below.
13. The development of this project is subject to all applicable rules, regulations, standards, and codes in effect on April 10, 1997 that are not specifically modified by this CUP. Compliance with applicable drainage standards, health standards, fire and building code standards and other applicable development standards shall be reviewed at the time of building permit application. Compliance with all applicable sensitive area regulations shall also be reviewed at the time of building permit application including, but not limited to Notice on Title, approval of a mitigation plan for filling Wetland C, and provision for required buffers and building setbacks as stated in KCC 21A.24.
14. The applicant shall submit a site plan and elevation drawings for review and approval by LUSD staff to ensure compliance with the CUP conditions cited

above. The applicant may submit these plans to LUSD concurrently with a building permit application; or, the applicant may request LUSD to review and approve such plans as part of a pre-application review prior to submitting a building permit application.

15. This action shall become null and void if a building permit(s) for this project is not issued within four years from the effective date of this decision. Pursuant to KCC 21A.42.090(E), this four-year period may be extended by the Director of DDES for one additional year.
16. Kitchen facilities in the church building shall be limited to ordinary residential-level facilities and shall be non-commercial in size and type.
17. No public or private school requiring certification by the Superintendent of Public Instruction shall be operated on site. This limitation shall not apply to daycare activities or to incidental "Sunday-school" type religious instruction throughout the week.
18. No automobile repair facilities shall be located on site.
19. Not more than six organized outdoor events per calendar year (including, but not limited to, picnics, concerts, fairs, and other formal gatherings or celebrations) shall be permitted on site. This limitation shall not apply to informal recreational activities, including hiking and informal sports events associated with the church. The applicant shall maintain an annual list of the six organized outdoor events, and such list shall be available to DDES upon request.
20. Sound levels during, and emanating from, any organized outdoor event on site (as limited by Condition No. 19 above) shall not exceed 49 dBA anywhere on any residential properties abutting the site on the west, southwest, or north. On adjacent residential properties abutting the east side of 236th Avenue N.E., such sound levels shall not exceed 49 dBA or the then-existing ambient Leq, whichever level is greater, in order to take into account other noise sources then existing. To ensure compliance with this condition, noise levels shall be monitored during every such organized outdoor event by qualified personnel retained by the applicant. The noise monitoring data shall be maintained by the applicant, and such data shall be available to DDES upon request.
21. No permanent exterior public address system shall be installed on site. Temporary public address systems may be used in connection with organized outdoor events on site, subject to the sound level restrictions for such events set forth herein.
22. Informal recreational use of the subject property is permitted. No permanent equipment or structures for ballfields or other sports events (e.g., grandstands, baseball fields or backstops, soccer fields or goals, or the like) shall be placed on the subject property; provided, however, that tot-lot equipment associated with daycare activities of the church shall be permitted in close proximity to the church building. No sports events involving participants in organized sports leagues shall be permitted on site. The foregoing limitations shall not apply to the approximately 12.5 acre area identified for future subdivision on the



applicant's revised site plan (Exhibit 93) if a subdivision of such area is approved.

23. Commercial deliveries, garbage pickup, and parking lot sweeping shall be prohibited between the hours of 9:00 p.m. and 7 a.m. on weekdays and Saturdays and shall be prohibited on Sundays.
24. The site shall not be used for park and ride or commuter parking, except informally when related to church sponsored activities.
25. Construction hours for the church facility, parking lots, and related facilities shown on the applicant's revised site plan (Exhibit 93) are restricted to between 7 a.m. and 7 p.m. on weekdays, between 9 a.m. and 7 p.m. on Saturdays, and are prohibited on Sundays.

#### MDNS Conditions

26. A natural-vegetation buffer shall be set aside for protection of the hawk nest. On the east side of the nest the buffer shall be a half circle with a minimum radius of 100 feet, and on the west side of the nest, the buffer shall be a half circle with a minimum radius of 180 feet. The hawk nest buffer shall be added to the sensitive area buffer as shown on the revised site plan and shall be subject to the notice on title per KCC 21A.24.170. No clearing or grading shall occur within this buffer except for management activities to benefit the hawk and other wildlife species. The King County Department of Natural Resources or its successor agency shall review and approve the Site Wildlife Management Plan.. The hawk nest buffer shall be shown on all building and construction plans.
27. Conifers may be planted within the hawk buffer to provide screening of the nest from the parking facilities, provided they are planted outside of the nesting season (February 1 to July 31). The planting restriction may be altered upon certification that the nesting period has ceased or that the nest is inactive during a particular year.
28. Construction activity shall be restricted within 300 feet of the hawk nest during the nesting season (February 1 to July 31). This restriction may be altered upon certification that the nesting period has ceased or that the nest is inactive during a particular year.
29. No heavy construction activity shall occur within 650 feet of the nest tree during the red-tailed hawk nesting season (February 1 to July 31). Heavy construction is defined as land clearing, tree falling, excavation, grading, road paving, or installing utility infrastructure. This restriction may be altered upon certification that the nesting period has ceased or that the nest is inactive during a particular year.
30. All parking and building lights shall be shielded and directed away from the nesting area.
31. For every acre proposed to be cleared under this permit, 1.8 acres shall be placed in a Conservation Easement to be held and monitored by King County. Sensitive

Areas and their buffers protected by Code shall be included as part of this calculation and in the Conservation Easement area. The area placed in this easement shall be clustered around the sensitive areas and the hawk nest buffer to form a continuous polygon. No clearing or grading shall occur within this easement except to implement a Site Wildlife Management Plan approved by King County DNR. The easement goals are:

- a. To preserve and maintain habitat for the many wildlife species using the site;
- b. To accomplish goals and objectives of the Bear Creek Basin Plan; and
- c. To protect the functions and values of streams and wetlands.

- 32. The legal description for the easement area shall be surveyed and clearly marked.
- 33. The costs of producing the easement document shall be paid by the applicant. Costs include, but are not limited to, a level 1 environmental assessment (to determine if the easement area contains hazardous materials), title search, escrow, other closing costs, recording fees, and preparation of a wildlife management plan.
- 34. The Conservation Easement shall be executed by the property owner as grantor, in favor of King County as grantee, in a recordable form acceptable to the King County Prosecuting Attorney's Office. After execution and delivery to DDES, the Conservation Easement shall be filed for recording with the King County Office of Records and Elections.

If the Department concludes that the use will not be, or cannot be made to be, compatible with the visual character, the CUP should be denied.

**DECISION:**

The appeal of the SEPA threshold determination (MDNS) by Citizens for Responsible Rural Area Development is denied.

The matter of the Conditional Use Permit, the subject of the appeals of Citizens for Responsible Rural Area Development and TimberLake Christian Fellowship, is remanded for further action consistent with Conclusion 17 above.

Any further administrative appeal should be limited to the issue of compatibility with the visual character of the existing and proposed development in the vicinity.

ORDERED this 6th day of August, 1998.

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Margaret Klockars  
Hearing Examiner Pro Tempore



TRANSMITTED this 6<sup>th</sup> day of August, 1998, to the parties and interested persons shown on the attached list.

MINUTES OF THE MAY 21, JULY 15, JULY 16, JULY 17, AND JULY 20, 1998,  
PUBLIC HEARINGS ON DEPARTMENT OF DEVELOPMENT AND  
ENVIRONMENTAL SERVICES, LAND USE SERVICES DIVISION FILE NO.  
L96AC022 – TIMBERLAKE CHRISTIAN FELLOWSHIP CONDITIONAL USE  
PERMIT APPEALS AND APPEAL OF THRESHOLD DETERMINATION:

The public hearing on these appeals was opened by Hearing Examiner James N. O'Connor. On May 22, 1998 Examiner O'Connor recused himself from further participation in these proceedings. Margaret Klockars reopened the public hearing on July 15, 1998 as Hearing Examiner *pro tem* in this proceeding. Participating at the hearing were Greg Borba, Fereshteh Dehkordi, Tom Beavers, Curt Horner, Barbara Heavey, Richard Wilson, Linda Stalzer, Richard Aramburu, Bruce Buckles, Ray Berry, Bill Dennis, Steve Hammer, Richard Snodgrass, John Altmann, Steve Shifton, Ronald Greenlee, John T. Olson, Sam Capelouto, Gary Norris, Keith Logan, Jim Szabo, Lane Williams, Randy Edwards, Ioana Park, Jim Ferguson, Michael Yantis, Jeff Clayton, and Sharon Tobin.

The following exhibits were offered and entered into the hearing record May 21, 1998:

- |                |   |
|----------------|---|
| Exhibit No. 1  | Department of Development of Environmental Services, Land Use Services Division, Report to the Hearing Examiner |
| Exhibit No. 2  | Mitigated Determination of Nonsignificance (MDNS) issued February 17, 1998                                      |
| Exhibit No. 3  | Environmental Checklist dated September 24, 1996  |
| Exhibit No. 4  | Appeal of MDNS received by the Applicant on March 10, 1998  |
| Exhibit No. 5  | Appeal of MDNS received by the "Citizens" on March 10, 1998   |
| Exhibit No. 6  | Prehearing Order issued April 9, 1998   |
| Exhibit No. 7  | SEPA file   |
| Exhibit No. 8  | Conditional Use Permit Report and Decision, dated February 17, 1998   |
| Exhibit No 9   | Application for Conditional Use Permit, received September 27, 1996   |
| Exhibit No. 10 | Site plan and project plans, received September 27, 1996  |
| Exhibit No. 11 | Revised site plan, received August 8, 1997  |
| Exhibit No. 12 | Revised site plan, received November 3, 1997  |
| Exhibit No. 13 | King County Assessor maps   |
| Exhibit No. 14 | Notice of Application, mailed April 10, 1997  |
| Exhibit No. 15 | Notice of Decision, mailed February 17, 1998  |
| Exhibit No. 16 | Letter from Stalzer to Carey, dated January 5, 1998 re Comprehensive Plan compliance                            |
| Exhibit No. 17 | Letter from Wilson to Carey, December 11, 1997 re legal issues regarding church as permitted use                |

- Exhibit No. 18 Memo from Stalzer to Borba, dated November 18, 1997 re compliance with KCC 21A and Comprehensive Plan
- Exhibit No. 19 Cover memo from Stalzer to Borba, October 31, 1997, re attached revised site plan
- Exhibit No. 20 Memo from Stalzer to Borba, October 27, 1997, re revised site plan issues
- Exhibit No. 21 Memo from Stalzer to Borba, October 17, 1997, re church programming
- Exhibit No. 22 Letter from Borba to Stalzer, October 17, 1997, re need for additional site information
- Exhibit No. 23 Letter from Stalzer to Borba, October 2, 1997, re response to Shifton and Yates letters
- Exhibit No. 24 Letter from Bowles to Stalzer, October 2, 1997, re SAO classifications of streams and wetlands
- Exhibit No. 25 Letter from Borba to Stalzer, October 1, 1997, re access through Canterbury Woods
- Exhibit No. 26 Cover letter from Stalzer to Borba, August 8, 1997, re new report and revised site plan
- Exhibit No. 27 Letter from Cox to Stalzer, July 30, 1997, re 120-day processing
- Exhibit No. 28 Cover letter from Stalzer to Borba, July 26, 1997, re Health Dept (septic) UHWA letters and transportation concurrency
- Exhibit No. 29 Letter from Stalzer to Borba, June 30, 1997, re update on project
- Exhibit No. 30 Letter from Borba to Stalzer, June 6, 1997 re need for additional information
- Exhibit No. 31 Cover letter from Stalzer to Borba, May 20, 1997, re traffic information
- Exhibit No. 32 Letter from Borba to Stalzer, April 10, 1997, re determination of complete application
- Exhibit No. 33 Cover letter from Stalzer to Borba, March 27, 1997, re Certificate of Water Availability
- Exhibit No. 34 Letter from Borba to Stalzer, February 25, 1997, re time extension granted to April 11, 1997
- Exhibit No. 35 Letter from Stalzer to Borba, February 18, 1997, re requesting time extension
- Exhibit No. 36 Letter from Borba to CNA, October 25, 1996, re determination of incomplete application
- Exhibit No. 37 Letter from CNA to Carey, October 24, 1996, re waiver for sewer/septic submittal requirement
- Exhibit No. 38 Letter from WSDOT to Borba January 27, 1998, re right turn lane on SR202/236<sup>th</sup> Avenue NE
- Exhibit No. 39 Memo from Stalzer to Borba,, October 22, 1997, re attached October 21, 1997, WSDOT agreement with Timberlake Church
- Exhibit No. 40 Letter from WSDOT to Dehkordi, September 5, 1997, re comments on proposal
- Exhibit No. 41 Memo from Popp to Norman, August 8, 1997, re reconsideration of KC requirements

Exhibit No. 42	Letter from Popp to WSDOT, August 1, 1997, re response to WSDOT traffic issues
Exhibit No. 43	Revised transportation concurrency, July 23, 1997, re 80,000 square foot building
Exhibit No. 44	Memo from Norman to Borba, July 16, 1997, re recommendations for traffic requirements
Exhibit No. 45	Letter from WSDOT to Dehkordi, June 25, 1997, re comments on proposal
Exhibit No. 46	Traffic report by Popp & Associates, April 25, 1997
Exhibit No. 47	Certificate of Water Availability with attached conditions, March 19, 1997
Exhibit No. 48	Letter from Timberlake to UHWA, February 3, 1997, re water usage
Exhibit No. 49	Letter from CAN to UHWA, December 10, 1996, re water usage
Exhibit No. 50	Letter from UHWA to CAN, October 24, 1996, re water availability
Exhibit No. 51	Letter from KC Health to Concept Engineering, July 16, 1997, re attached July 16, 1997 preliminary approval
Exhibit No. 52	Letter from CNA to Borba, November 20, 1996, re septic requirements
Exhibit No. 53	Memo from Pederson to Dehkordi, February 6, 1998, re comments on forester's report
Exhibit No. 54	Memo to Stalzer to Borba, October 20, 1997, re attached October 11, 1997 forester's report
Exhibit No. 55	Memo from Stalzer to Borba, October 26, 1997, re attached October 24, 1997, supplemental noise report by Yantis
Exhibit No. 56	Memo from KC Health to Karen Scharer, June 19, 1997, re agreement with September 1996, Noise Study
Exhibit No. 57	Noise Report by Michael Yantis, September 1996
Exhibit No. 58	Memo from Beavers to Dehkordi, November 14, 1997, re revised recommendations
Exhibit No. 59	Memo from Beavers to Dehkordi, October 8, 1997, re recommendations
Exhibit No. 60	Wildlife Report by Talasaea, August 11, 1997
Exhibit No. 61	Revised Sensitive Areas Report by Talasaea, August 8, 1997
Exhibit No. 62	Stream survey report by Talasaea, July 31, 1997
Exhibit No. 63	Hydrologic Assessment of Wetland B by Pentac, July 21, 1997
Exhibit No. 64	Sensitive Areas Report by Talasaea, September 27, 1996
Exhibit No. 65	Geotechnical Report by GeoEngineers, September 27, 1996
Exhibit No. 66	Flooding Potential Study by GeoEngineers, September 27, 1996
Exhibit No. 67	Well Study by GeoEngineers, September 21, 1996
Exhibit No. 68	Notes from windshield survey and related research by Greg Borba, January 15, 1998
Exhibit No. 69	Photographs of other church facilities taken by Greg Borba, January 15, 1998
Exhibit No. 70	DDES FileL97AC022
Exhibit No. 71	Schematic Design – Final Draft
Exhibit No. 72	Vicinity map
Exhibit No. 73	Photographs mounted on board of commercial area

- Exhibit No. 74 Master Floor Plan dated April 15, 1998, with notation “Approved by the board April 22, 1998”
- Exhibit No. 75 Preliminary site plan dated April 15, 1998
- Exhibit No. 76 Phase I Floor Plan dated April 15, 1998
- Exhibit No. 77 Master Plan Elevations dated April 15, 1998
- Exhibit No. 78 Building Sections dated April 15, 1998
- Exhibit No. 79 Withdrawn
- Exhibit No. 80 Timberlake Christian Fellowship web page
- Exhibit No. 81 Schematic Design Final Draft as response to Appellant’s Interrogatory #2 – April 27, 1998
- Exhibit No. 82 Hard copy of current Timberlake Christian Fellowship web page
- Exhibit No. 83 The Free Methodist Church of North America “The Book of Discipline 1995”
- Exhibit No. 84 Timberlake Christian Fellowship Preliminary Design Program – Phase I (outline)
- Exhibit No. 85 A. Phase I Floor Plan Main Building dated April 15, 1998  
B. Building Sections dated April 15, 1998
- Exhibit No. 86 Resume of John J. Altmann
- Exhibit No. 87 Department of Fish and Wildlife letter dated May 19, 1998, with recommendations for site
- Exhibit No. 88 Excerpt from Birds of North America relating to red-tailed hawks

The following exhibits were offered and entered into the hearing record July 15, 1998:

- Exhibit No. 89 Transcript of April 9, 1998, prehearing conference
- Exhibit No. 90 Transcript of May 21, 1998, public hearing
- Exhibit No. 91 Transcript of May 22, 1998, public hearing
- Exhibit No. 92 Timberlake Christian Fellowship's proposed revised conditions
- Exhibit No. 93 Site plan dated July 10, 1998
- Exhibit No. 94 Video taken by Greenlee of Timberlake Christian traffic on Easter
- Exhibit No. 95 Color coded site plan prepared and submitted by Keith Logan depicting uses with orange indicating areas of concern
- Exhibit No. 96 Traffic counts on 236<sup>th</sup> NE at 4024 May 17, 1998, and June 14, 1998, taken by Bill Dennis
- Exhibit No. 97 Stipulated Order Modifying DNS and Dismissing Appeal dated September 17, 1993, issued by James N. O'Connor, King County Hearing Examiner
- Exhibit No. 98 Photographs (20) taken and submitted by John T. Olson
- Exhibit No. 99 99.A-C NOT ADMITTED
  - A Photograph taken by Kingdome south parking lot
  - B. Photograph of Home Depot parking lot
  - C. Wilberton Park'n Ride just off Highway 405/108 parking stalls
- Exhibit No. 100 Addendum to DNS for Guardwell Mini Storage
- Exhibit No. 101 Excerpts of Redmond Community Development Guide
  - 20D.170 Special Uses
  - 20C.30 Residential Zones
- Exhibit No. 102 Overlake Christian Church Transportation Management Program (TMP)
- Exhibit No. 103 Final schematic dated April 23, 1998, showing whole site plan – Master Plan Parking
- Exhibit No. 104 Plan catalog dated 6/23/98..a complete listing of the pre-designed building plans, estimated costs, and floor plan square footage offered in Plans Catalog of Churches and Related Buildings (found at: <http://www.churchconstruction.com/cdc/plans.htm>)
- Exhibit No. 105 Evangelism and Church Growth Strategies (from <http://www.nazarene.org/cg/strategy.html>)
- Exhibit No. 106 Chart showing name, address, city, zip, building square footage, parking spaces, membership and worship seating of churches (primarily in Redmond area)
- Exhibit No. 107 Photographs (3) taken of Shifton driveway
- Exhibit No. 108 Timberlake Christian Fellowship: use by quantity of people chart, including sources
- Exhibit No. 109 Video taken by and submitted by Shifton showing traffic, darkness, impacts off headlights, and other impacts on rural nature of area

The following exhibits were offered and entered into the hearing record July 16, 1998:

- Exhibit No. 110' Excerpts from LDS Kent Ward Meeting House FEIS



- Exhibit No. 111 Guide to Exhibit 110 indicating page and sections relevant to instant matter
- Exhibit No. 112 Excerpt from Churches and Church Membership in the United States inn 1990 – An Enumeration by Region, State and County Based on Data Reported for 133 Church Groupings, cover sheet and pp 411-412
- Exhibit No. 113 1990 Reporter Demos – 1 Mile radius around 5035 236th Avenue NE (Scan/US, Inc. July 15, 1998)
- Exhibit No. 114 Letter dated March 11, 1997, from Chris Searcy (Concept Engineering, Inc.) to John Phillips (Union Hill Water Association)
- Exhibit No. 115 Water consumption by University Presbyterian and Timberlake's equivalent ERU (domestic water)
- Exhibit No. 116 Photographs (2) of proposed site taken from two locations on 236<sup>th</sup> with subject 50 feet away
- Exhibit No. 117 Resume of Michael R. Yantis, P.E., President of Michael R. Yantis Associates, Inc., P.S.
- Exhibit No 118 Yearly water consumption charts for Northshore Baptist, Overlake Christian and Eastside Foursquare ( 3 sheets)
- Exhibit No 119 Three-ring binder with photographs of churches in Redmond area taken and submitted Sharon Tobin (Tabs 1, 4, 5, 6, 9, 11,13,14 15, 16, 17, 18,19,20, 22, and 26
- Exhibit No 120 Exhibit No. 119 photographs NOT ADMITTED
- Exhibit No. 121 Evergreen Title Company search by zip codes of eastside churches
- Exhibit No. 122 Tabular compilation of Evergreen Title Company report (Exhibit No. 121)
- Exhibit No. 123 List of eastside churches (Exhibit No. 122) showing number of parking spaces for each
- Exhibit No. 124 Map showing distribution of churches by number of parking spaces for each
- Exhibit No. 125 Chart defining dot sizes for Exhibits 124-128 as to building size of churches and churches by number of parking spaces
- Exhibit No. 126 Map showing distribution of churches by building size
- Exhibit No. 127 Map showing distribution of members of Timberlake Christian Fellowship
- Exhibit No. 128 Aerial photograph of area showing building footprint, parking area footprint, and drainfield footprint
- Exhibit No. 129 Map showing parcel boundary lines (based on Exhibit No. 95)
- Exhibit No. 130 Aerial photograph taken from site:
  - A. Looking north
  - B. Looking west toward Redmond
  - C. Looking east
- Exhibit No. 131 Aerial photograph of City of Redmond (taken July 27, 1997)
- Exhibit No. 132 May 21, 1998, Timberlake Christian newsletter taken from Timberlake website (last page missing) submitted by Keith Logan

The following exhibits were offered and entered into the hearing record July 17, 1998:

- Exhibit No. 133 Resume of Gary Norris, PE

- Exhibit No. 134 Anticipated Daily Attendance Table (people in building)
- Exhibit No. 135 Zip Code Report of Current Attenders of Timberlake prepared by Applicant
- Exhibit No. 136 Letter dated June 27, 1997, from Linda Stalzer/Ray Berry to Bill Heaton, Seattle-King County Health Department
- Exhibit No. 137 July 1998 Timberlake newsletter from Timberlake website

MK:daz/vam

Attachment

SEP\L96\L96AC022 exh